

That is what the General Assembly has done, in § 2-608(a), with the county or "piggyback" income tax and with the portion of the income tax identified in § 2-607. In these provisions, the General Assembly has instructed the Comptroller to remit a portion of the tax revenues generated in each local jurisdiction to that jurisdiction – where, of course, the funds are subject to local budget procedures. The categories of funds described in these provisions are neither estimated as State fund in the Budget Bill nor appropriated for other purposes in the Budget Bill or by a supplementary appropriations bill. In effect, by statute these portions of income tax revenues never lose their local status, just as in Baltimore v. O'Connor the fines originating in one county were authorized to be kept at their source.

House Bill 134 is significantly different, however. It does not identify an overall category of revenues derived from particular jurisdictions that are marked off, year after year, for the use of those jurisdictions. Instead, it allocates specific dollar amounts of Statewide income tax revenues that have already been estimated and appropriated in the Budget Bill, attaches conditions for their disbursement, and limits the disbursement to a single fiscal year. Indeed, because House Bill 134 seeks to require the disbursement of revenues already appropriated, we think that the Court of Appeals would be that much less likely to approve it under the dicta in O'Connor or otherwise.⁵ Unlike §§ 2-607 and 2-608(a), House Bill 134 in our view cannot be construed as a permissible demarcation of a category of local funds, to be returned to the source jurisdiction outside the ordinary process of appropriations.

Hence, although the matter is not entirely free from doubt, we think that House Bill 134 can be given its intended effect only through a lawful appropriation.

C. Appropriation Methods

Article III, § 52 of the Constitution prescribes the permissible methods of appropriation. In a regular session, those methods are limited to appropriations by the Budget Bill or a supplementary appropriation bill.⁶

The Department of Budget and Fiscal Planning has advised that Senate Bill 310, the Budget Bill for fiscal year 1991, does not contain an appropriation pursuant to

⁵To be sure, although House Bill 134 relies on the same source of revenues as were estimated in the budget and the Budget Bill, House Bill 134 does not result in a violation of the balanced budget requirement. Article III, § 52(5a) merely requires that the "Budget and the Budget Bill as submitted by the Governor" and as enacted are to be balanced. The budget and Budget Bill for fiscal year 1991 satisfied this requirement.

⁶Although an appropriation act during a regular session must be either a Budget Bill or supplementary appropriations bill, in a special session the Budget Amendment allows the General Assembly to enact emergency appropriations. Article III, § 52(14). Thus, in Panitz v. Comptroller, 247 Md. 501, 503 (1967), the Court of Appeals stated that funds which had not been validly appropriated by a supplementary appropriations bill in a regular session could be appropriated by an appropriation act in a special session. See also 52 Opinions of the Attorney General 176, 180 (1967). This was, in fact, done by Chapter 1 of the Laws of Maryland, Special Session, June 22, 1967.